

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

Bail Appl..No. 6604 of 2007()

CP.80/2006 of J.M.F.C.-II, NEYYATTINKARA
CRIME NO. 386/2002 of PARASSALA POLICE STATION
.....

PETITIONER/ACCUSED

ANIL KUMAR @ MANIKUTTAN
S/O.THANKAPPAN,
PULLUKUZH MELEPUTHEN VEEDU
VATTAVILA, CHENKAL VILLAGE
NEYYATTINKARA.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY ADV.SRI. S.U. NAZER, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 31/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

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B.A.No.6604 of 2007

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Dated this the 31st day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces indictment for offences punishable, inter alia, under sections 308 read with 149 IPC. Investigation is complete. Final report has been filed. The petitioner was not arrested at the crime stage. The case against him was split up. The connected case has been committed to the Court of Sessions. The learned Magistrate has issued coercive processes against the petitioner. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was not wilful. The petitioner is willing to surrender before the learned Magistrate and seek bail. He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances, appropriate directions may be issued under section 438 Cr.P.C prays the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the

learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE